

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

-against-

MEMORANDUM AND ORDER
05-CV-3212 (ILG)

INTERNATIONAL
LONGSHOREMEN'S ASSOC.,
et al.,

Defendants.

-----X

Glasser, Senior United States District Judge:

In a Memorandum & Order issued on November 1, 2007, familiarity with which is assumed, this Court granted the defendants' motion to dismiss the Complaint pursuant to Federal Rules of Civil Procedure 8(a)(2) and 12(b)(6). See United States v. International Longshoremen's Ass'n, 518 F. Supp. 2d 422 (E.D.N.Y. 2007). That decision did not address the Government's pending motion for entry of default judgment against defendant Jerome Brancato. That motion is hereby DENIED. Because the Court's November 1, 2007, order dismissed the Complaint in its entirety pursuant to Rules 8(a)(2) and 12(b)(6), entry of default judgment against Brancato is inappropriate. See Jones v. National Commc'ns. & Surveillance Networks, 266 Fed. App'x 31, 33 (2d Cir. 2008) ("The propriety of the district court's dismissal pursuant to Rule 8 also resolves any issues arising from Jones's assertion that the district court erred by denying entry of default judgment against those defendants who neither answered nor moved to dismiss the complaint. Because the Rule 8 dismissal disposed of the complaint in its entirety, there was no basis upon which the district court could have granted default judgments against some of the defendants." (citing Barrett v. Harwood, 189 F.3d 297, 300-04 (2d Cir.1999))).

Nothing herein shall be construed to preclude the Government from moving for default judgment against any defendant for failure to respond to the Second Amended Complaint, which is now pending before the Court.

SO ORDERED.

Dated: Brooklyn, New York
August 29, 2008

/s/
I. Leo Glasser
United States Senior District Judge

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